

### **REMARKS**

Claims 1-9 and 16-20 are all the claims presently pending in the application. Claims 10-15 stand withdrawn resultant from restriction. Claim 10 has been amended to use the same wording in the combination as used in the subcombination, thereby removing any possible basis for the restriction, since the restriction analysis is required to be confined to the claimed invention.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicants specifically state that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-9 and 16-20 stand rejected under nonstatutory obviousness-type double patenting. Claims 1-4, 7, 8, 16, 17, and 20 stand rejected under 35 U.S.C. § 102(a) as anticipated by US Patent Application Publication US 2005/0122005 to Higuchi et al., and claim 5, 6, 9, 18, and 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Higuchi.

These rejections are respectfully traversed in the following discussion.

#### **I. THE CLAIMED INVENTION**

As described, for example, in independent claim 1, the claimed invention is directed to a storage medium including a metallic underlayer, a ferroelectric data layer over the metallic underlayer, and a layer over the ferroelectric data layer having a charge migration rate faster than a charge migration rate of the ferroelectric data layer.

As explained at lines 11-17 of page 2 of the specification, no solution has yet been found to the surface depolarization problem that plagues the art of ferroelectric disk technology using vertical polarization of an FE surface, as explained in more detail beginning at line 22 on page 6, wherein is described a slow loss of surface polarization over several to 24 hours time scale. The inventors recognized that this effect was due not to loss of bulk polarization in the FE film but to accumulation of mobile surface charges which neutralize the bound charges constituting the surface polarization.

The claimed invention provides a solution by providing a layer over the ferroelectric data layer that has a charge migration rate that is faster than the charge migration rate of the ferroelectric data layer.

## **II. THE DOUBLE PATENTING REJECTION**

Claims 1-9 and 16 –20 stand rejected under double patenting over Applicants' previous patent 6,515,957. However, Applicants respectfully submit that this previous patent by Applicants fails to teach or suggest using a layer on top of the ferroelectric data layer having the characteristic described in the final claim limitation of the independent claims.

Hence, turning to the clear language of the claims, in '957 there is no teaching or suggestion of: "... a layer over said ferroelectric data layer having a charge migration rate faster than a charge migration rate of said ferroelectric data layer", as required by independent claim 1. The remaining independent claims have similar wording.

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

### **III. THE PRIOR ART REJECTIONS**

The Examiner alleges that Higuchi teaches the claimed invention described by claims 1-4, 7, 8, 16, 17, and 20 and renders obvious claims 5, 6, 9, 18, and 19.

However, although Applicants disagree with the Examiner's analysis that Higuchi teaches the claimed invention, Applicants submit that Higuchi's US filing date of November 12, 2003, is later than the filing date of October 31, 2003, of the present application. Therefore, Higuchi is not qualified as prior art against the present application.

### **IV. FORMAL MATTERS AND CONCLUSION**

Claim 10 has been amended to use identical wording to that of the remaining independent claims. Therefore, the restriction requirement is deficient since the analysis requires that only the claimed invention be considered during this analysis (e.g., the combination, as claimed, does require the particulars of the subcombination, as claimed, by reason of the identical claim wording).

In view of the foregoing, Applicant submits that claims 1-9 and 16-20, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance, and that withdrawn claims 10-15 are also in condition to be rejoined and allowed. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

Serial No. 10/697,271

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The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,



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